

REMARKS

Reconsideration of the above-identified application in view of the amendments above and the remarks following is respectfully requested.

Claims 24-42 and 48-54 are currently pending.

Claims 24-42 and 48-54 are rejected under § 103(a).

Claims 24, 41, 48, and 51 have been amended so as to distinguish between the present invention and the cited art. It is submitted that no new matter has been added by these amendments.

Claim 31 has been amended to correct an inadvertent error.

Double Patenting

Claims 24, 31, 32, 41, and 42 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-3 of U.S. Patent No. 6,607,136.

On consideration of the above, Applicant is submitting herewith a Terminal Disclaimer.

Claim Rejections – 35 USC 103

In this section of the Office Action, Claims 24-34 were rejected under 35 USC 103 (a) as being unpatentable over Fajkowski (US Patent No. 5,905,246). The Examiner has stated that Fajkowski teaches a portable device comprising a body having a thickness of less than 0.8 mm and a switch, memory for holding device information, a processor for processing instructions and computing data, and reception electronics for receiving wireless signals.

On consideration of the above, Applicant has elected to amend Claim 24 such that it more clearly distinguishes the present invention from the device taught by Fajkowski, as will be discussed below.

Fajkowski teaches a system for coupon management and redemption wherein coupon bar codes and related information may be stored on a coupon card (column 9, line 19). A user may transfer this information to his coupon card by scanning of the bar codes (column 11, line 10), by manually inputting of the bar codes (column 11, line 37), by

transferring of the bar codes from the Internet via a disk drive of a conventional computer (column 6, line 20), or by transferring of the bar codes via a telephone interface (column 31, line 28). Information may also be transmitted to the coupon card via RF pager signals, as noted by the Examiner. The coupon card is used to sort the scanned information and to store the sorted information in its memory (column 10, line 49).

The system taught by Fajkowski further includes a periphery device which interfaces with the coupon card (column 15, line 42) and which is connected to a cash register. The periphery device records data concerning coupons stored on the coupon card and data concerning purchases from the cash register, and determines which coupons are redeemable against purchases. The used coupons are then removed from the coupon card memory.

It is clearly stated in the patent to Fajkowski that the microprocessor and operational keys of the coupon card enable the coupon card to initiate bar code scanning and arrange the bar codes into various categories. However, processing of the information, including comparing coupon data with items purchased, is done by the peripheral device, not by the coupon card. Fajkowski does not show or suggest a card having a processor for "processing signals to determine instructions to be carried out," as recited in amended Claim 24.

Additionally, while Fajkowski mentions that, in a preferred embodiment, the coupon card will have a height and width which approximate those of a conventional credit card (column 8, lines 26-28), there is no suggestion that the thickness of the coupon card is less than 0.8 mm, as recited in amended Claim 24. Although Fajkowski notes that "ideally, the thickness of the coupon card 1 will be minimized" (column 8, lines 29-31), he does not teach how this may be accomplished.

It is submitted, therefore, that amended Claim 24 is patentable over Fajkowski and is, therefore, allowable. It is further submitted that Claims 25-34 are patentable, as they depend from allowable amended Claim 24.

Additionally in the Office Action, Claims 35-42 were rejected under 35 USC 103 as being unpatentable over Fajkowski in view of Kim (US 2006/0229114).

On consideration of the above, Applicant has elected to amend Claims 24 and 41 such that they more clearly distinguish the present invention from the device taught by Fajkowski.

As discussed above, Faskowski does not teach "processing signals to determine instructions to be carried out," as recited in Claim 35 (dependent on amended Claim 24) and in amended Claim 41.

Kim teaches a mobile entertainment and communication device in a palm-held housing. The device includes a cellular or satellite telephone capable of wirelessly communicating with the Internet (paragraphs 0011-0012) and a memory card socket for receiving a memory card for recording data directly from the Internet such as a musical performance (audio and visual), that can then be reproduced by the device (paragraph 0013). Kim does not, however, teach "processing signals to determine instructions to be carried out," as recited in Claim 35 (dependent on amended Claim 24) and in amended Claim 41.

Therefore, even if one were to combine the teachings of Kim with those of Fajkowski, he would not arrive at the present invention, as recited in the amended claims, because neither citation teaches "processing signals to determine instructions to be carried out," as recited in Claim 35 (dependent on amended Claim 24) and in amended Claim 41.

Additionally, even if one were to combine the teachings of Kim with those of Fajkowski, in an attempt to produce a device having the functionality of the present invention, such a device would be the size of a cellular or satellite telephone. Such a combination would not result in a device as recited in Claim 35 (dependent on amended Claim 24 and in amended Claim 41, wherein the thickness of the device is less than 0.8 mm.

It is submitted, therefore, that amended Claims 35 and 41 are patentable over Fajkowski in view of Kim and are therefore, allowable. It is further submitted that Claims (36-40) and (42) are patentable, as they depend from allowable Claims 35 and 41, respectively.

Further in the Office Action, Claims 48-54 were rejected under 35 USC 103 as being unpatentable over Logan et al. (U.S. Patent No. 7,058,376).

On consideration of the above, Applicant has elected to amend Claims 48 and 51 such that they more clearly distinguish the present invention from the device taught by Logan et al., as will be discussed below.

Logan et al. teach a radio receiver and storage unit which may receive and record a plurality of separate, simultaneously broadcast programs, and then selectively reproduce desired programs at desired times. There is not, however, any teaching of storing/recording an audio sample on "a portable device comprising: a device body that has a thickness less than

0.8 mm and a switch; memory for holding device information; a processor for processing instructions and computing data; and reception electronics for receiving and recording acoustic signals," as recited in amended Claims 48 and 51.

It is submitted, therefore, that amended Claims 48 and 51 are patentable over Logan et al. and are, therefore, allowable. It is further submitted that Claim (49-50) and (52-54) are patentable, as they depend from allowable amended Claims 48 and 51, respectively.

All of the issues raised by the Examiner have been dealt with. In view of the foregoing, it is submitted that all the claims now pending in the application are allowable. An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,

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Enclosures:

- Petition for Extension (Two Months)
- Terminal Disclaimer